

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

*Stacey Smeby, on behalf of herself and all  
others similarly situated,*

Civil No. 14-5086 (MJD/JJK)

Plaintiff,

v.

**ORDER**

Messerli & Kramer, P.A.,

Defendant.

---

Bennett Hartz, Esq., and Jonathan L R Drewes, Esq., Drewes Law, PLLC; and David J. Carrier, Esq., and Kai H. Richter, Esq., Nichols Kaster, PLLP, counsel for Plaintiff.

Aram V. Desteian, Esq., and Christopher R. Morris, Esq., Bassford Remele, PA, counsel for Defendant.

---

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated April 7, 2015. No objections have been filed to that Report and Recommendation in the time period permitted. Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

1. Defendant's motion to dismiss (Doc. No. 9), is **GRANTED IN PART** and **DENIED IN PART** as follows:

- a. The motion is **GRANTED** to the extent it seeks dismissal of Count I of the Amended Complaint. Count I of the Amended Complaint is dismissed;
- b. The motion is **GRANTED** to the extent it seeks dismissal of Plaintiff's claim for injunctive relief. Plaintiff's claim for injunctive relief is dismissed; and
- c. The motion is **DENIED** in all other respects.

Date: April 23, 2015

s/Michael J. Davis  
Michael J. Davis  
Chief Judge, United States District Court